

OPENING STATEMENT

of

MICHAEL K. POWELL

Chairman

Federal Communications Commission

Before the

Subcommittee on Telecommunications and the Internet

of the House Committee on Energy and Commerce

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**SUMMARY OF OPENING STATEMENT OF
FCC CHAIRMAN MICHAEL K. POWELL
BEFORE THE
SUBCOMMITTEE ON TELECOMMUNICATIONS AND THE INTERNET
OF THE HOUSE COMMITTEE ON ENERGY AND COMMERCE
MARCH 29, 2001**

In order to serve the American public, the Federal Communications Commission, as an institution, must be efficient, effective, and responsive. The challenges of reaching these goals at the Commission are complicated by the sweeping, fast-paced changes that characterize the industries that we regulate. Indeed, the Commission is experiencing a challenge it has never faced: each industry segment in our portfolio is in the midst of revolution, and is attempting to adapt to the most fundamental changes in their history. Moreover, the changes are blurring the lines that once separated these industry groupings. There are new markets, new competitors, and new regulatory challenges.

For this agency to fulfill its congressional charge, indeed to remain relevant at all, it must write and execute a new business plan built along four dimensions: (1) a clear substantive policy vision, consistent with the various communications statutes and rules, that guides our deliberations; (2) a pointed emphasis on management that builds a strong team, produces a cohesive and efficient operation, and leads to clear and timely decisions; (3) an extensive training and development program to ensure that we possess independent technical and economic expertise; and (4) organizational restructuring to align our institution with the realities of a dynamic and converging marketplace.

My goal is to improve the agency on all these dimensions. To that end, I intend to seek the opinions and thoughts from a wide range of participants, including this Subcommittee and other Members of Congress and their staffs, as well as the businesses that come before the Commission. And, I want to hear from the Commission's employees. They often know best how we should change and what tools they need to do their jobs. I want to gather opinions and ideas, but be swift to make changes. It is our goal to fully complete many of these changes this year.

Finally, I will be turning to this Subcommittee and Congress for assistance. With regard to the organizational restructuring that is likely to be necessary, I hope you will concur in those changes. Most critically, I look to Congress to support the Commission's budgetary needs and objectives.

I cannot predict the future, nor can anyone else at the Commission. When faced with future challenges that are uncertain, the best approach is to build a first-class operation, with top talent, that is trained and disciplined enough to adapt quickly to new and changing situations. I hope to build, along with my colleagues and the outstanding FCC staff, just such a unit—one well suited to an uncertain future.

Good morning, Mr. Chairman and other distinguished members of the House Subcommittee on Telecommunications and the Internet. Thank you for inviting me here to discuss the Federal Communications Commission's agenda for 2001 and the agency's reform effort.

I am honored and humbled to lead the Commission at this time of unbelievable change in the communications industry. I believe a critical part of my job is to be a leader and steward of the agency, and I take this responsibility very seriously. In order to serve the American public, the FCC, as an institution, must be efficient, effective, and responsive. The challenges of reaching these goals at the Commission are complicated by the sweeping, fast-paced changes that characterize the industries that we regulate. Indeed, the Commission is experiencing a challenge it has never faced: each industry segment in our portfolio is in the midst of revolution, and is attempting to adapt to the most fundamental changes in their history—for example, competition and deregulation in telephones, DTV transition in television, modem and interactive services in cable, wireless Internet and digital services, consumer accessible satellite service, broadband everywhere, and on and on. Moreover, the changes are blurring the lines that once separated these industry groupings. There are new markets, new competitors, and new regulatory challenges. The game has become three-dimensional chess, where each board is spinning.

These winds of profound and dynamic change, unleashed in part by the Telecommunications Act of 1996, have buffeted the Commission and blown it into a position where its decisions have far-reaching impact on the future of communications, not only in the United States but throughout the world. We have come a long way from an agency where the principal focus was the assignment of radio licenses, and its principal activity was conducting lengthy comparative hearings to assign those licenses. This new environment is no longer linear, but chaotic and dynamic. For this agency to fulfill its congressional charge, indeed to remain relevant at all, it must put together a new business model and build the type of team that can execute it effectively. That is what we intend to do.

FCC Reform: The New Business Plan

I conceive of FCC reform as a comprehensive retooling and redirection of the Commission's entire mission. Our approach is to write and execute a new business plan built along four dimensions: (1) a clear substantive policy vision, consistent with the various communications statutes and rules, that guides our deliberations; (2) a pointed emphasis on management that builds a strong team, produces a cohesive and efficient operation, and leads to clear and timely decisions; (3) an extensive training and development program to ensure that we possess independent technical and economic expertise; and (4) organizational restructuring to align our institution with the realities of a dynamic and converging marketplace.

1. Substantive Vision

The industry, the capital markets, and the government find themselves navigating between the matured, legacy communications system and the nascent innovation-driven Internet space of the future. The legacy world to our back is a proud one. This nation built the finest voice communication system in the world, as well as top-notch mass media delivery systems in the form of radio, television, and cable. These systems have reached maturity though: that is,

we understand the basic technology and architecture; we largely understand the cost characteristics; and, we understand what the consumer wants and what the product is. And, government regulation and policy had coalesced around these understandings, principally in the form of regulated monopoly and oligopoly.

We now are looking up at a cresting wave of change that we are much less sure of how to navigate. The digital broadband world is in its infancy, and its qualities and characteristics are much less clear. The new advanced architectures and technologies are just beginning to be understood and deployed, with no clear winning technology or industry. The cost characteristics may differ substantially from those of traditional networks to which we are accustomed. Broadband Internet products are still being developed and we all wait to see what service offerings consumers will and will not embrace. It is a world of dynamic and chaotic experimentation in which any prediction of how it turns out is foolhardy.

I believe government policy needs to migrate steadily toward the digital broadband future, but remain humble about what it does not understand and cannot predict. I submit that this digital broadband migration should be built around incubation, innovation and investment. At the Commission, our policy direction will focus on this migration and will have several directional guideposts:

- We will do everything we can to facilitate the timely and efficient deployment of broadband infrastructure. In doing so, we will endeavor to promote the growth of a wide variety of technologies that can compete with each other for the delivery of content and will strive not to favor—or uniquely burden—any particular one.
- We will pursue the worthy universal service goals of ubiquity and affordability as new networks are deployed, but will challenge ourselves to do so in creative ways.
- We will redirect our focus onto innovation and investment. The conditions for experimentation and change and the flow of money to support new ventures have often been misunderstood or neglected. If the infrastructure is never invented, is never deployed, or lacks economic viability we will not see even a glimmer of the bright future we envision.
- We will harness competition and market forces to drive efficient change and resist the temptation, as regulators, to meld markets in our image or the image of any particular industry player.
- We will rationalize and harmonize regulations across industry segments wherever we can and wherever the statute will allow.
- We will validate regulations that constrain market activity that are necessary to protect consumers, or we will eliminate them.
- We will be skeptical of regulatory intervention absent evidence of persistent trends or clear abuse, but we will be vigilant in monitoring the evolution of these nascent markets.

- We will shift from constantly expanding the bevy of permissive regulations to strong and effective enforcement of truly necessary ones. We will need Congress' help to put real teeth into our enforcement efforts.

2. Operations and Management

All the vision in the world is useless if you do not build and manage an institution that can execute it. We intend to actively manage the agency. Indecision and avoidance are not legitimate policies and, thus, we will strive to reduce backlogs and put systems in place that will prevent them from returning. Managers will be measured, in part, on this basis.

The Commission will develop an annual strategic planning process that will be integrated with the federal budget cycle and the review of our performance as an institution and as individuals. We are working to establish uniform measures of productivity across the agency to facilitate this activity.

The Commission is developing a set of internal procedures that will allow it to function more smoothly. These procedures will cover subjects such as Commission deliberation, voting procedures and internal document security.

The Commission should continue to modernize its information technology infrastructure to ensure productivity gains. We must strive to be a virtual agency—one in which someone in Connecticut is able to access us as easily and readily as someone on Connecticut Avenue. We are working to make this goal a reality through increased electronic access capability. We are engaged in a time-consuming and expensive project, but one that is critical to our ability to remain relevant in this new millennium. We must continue with due speed to use the advances of technology to our advantage.

We have 18 major information technology systems that incorporate electronic filing or offer public access to data. The industry can file most license requests, equipment authorizations, and comments electronically. Seventy-two percent of our services have electronic filing capability, but I want to do better. We administered well over three million licenses last year, so it is critical that we are efficient in this area. It is also important that citizens all over America have the ability to contact us easily and from anywhere. Currently, they are able to do so electronically, by phone or the old fashioned way—by letter. Last year, we received well over one million inquiries from consumers. The public must be an active voice in the communications transformation, for they are the ultimate beneficiaries of the abundant choices resulting from full and fierce competition.

We are also overlaying this virtual agency concept to the benefit of FCC staff through an expansive telecommuting program, which is open to all eligible employees. Virtually 100 percent of the Commission's employees are eligible for the telecommuting program. Approximately 400 of our eligible employees, about 20 percent, have chosen to telecommute on either a regular or ad hoc basis. Fewer than one percent of those who wanted to telecommute have been turned down based on the Commission's criteria.

3. Technical and Economic Expertise

The communications revolution is being driven by advances in technology. The Commission must have a strong fluency in technology. We cannot depend on those we regulate for on-the-job tutorials while we make decisions. This situation is grave. Over the last six years, our engineering staff has decreased by more than 20 percent. Within the next four years, 40 percent of our engineering staff will be eligible to retire. Conversely, we are not replenishing the coffers at the other end by bringing in new employees. We, like other governmental departments and agencies, are competing for this talent in a tight labor market and are challenged to convince talent to enter government service. This has been most apparent trying to recruit entry level engineers at the GS-5 and GS-7 levels.

To address this situation the Commission is developing an agency-wide "Excellence in Engineering" program. We will examine creative ways to gain greater personnel and pay flexibility to attract technical talent. Increased salaries alone, however, will not do the trick, nor is it the sole motivator for anyone entering government service. We will look at ways to ensure technical workers are able to continue to develop in their field, through strong training and development programs and job rotation. Our laboratory facilities in Columbia, Maryland, need to be upgraded to provide engineers with the tools to engage in critical and challenging work. Improvement in this area will be difficult to achieve, but we consider it imperative to our efforts to improve our workforce.

It also is vital that we train our non-engineering staff in the areas of engineering and advanced technology. We already have begun to develop an FCC "university" of sorts using our own staff and guest lecturers, and taking advantage of various programs currently available through the government and local academic institutions. We can use this Washington, D.C. location to our advantage and tap into industry and academia. We can use local scholars and have them participate in an educational curriculum, to provide lectures, to provide classroom instruction, to provide counsel and advice. We need to take better advantage of our access to talent and knowledge.

I am putting similar emphasis on economics and market analysis. These tools are essential to our agency's mission. We have the opportunity to take advantage of both internal resources, visiting experts, and outside educational programs to help not only our economists improve their skills but to help all the FCC's employees understand better the impact of our rules on technological innovations, and competitive markets.

4. Restructuring

In addition to examining our systems and procedures, we need to look at the organizational structure of the agency. Communications policy has been written in carefully confined buckets premised on certain types of technology. The FCC's organizational structure largely mirrors that premise. But the convergence of technology tears down those traditional distinctions and makes it evermore difficult to apply those labels to modern communications providers. In the same way, it makes it more important than ever for us to examine whether those organizational buckets still hold water.

About a year ago, we began breaking down the technology-based divisions with the creation of the Enforcement Bureau and the Consumer Information Bureau. With those reorganizations, we created two bureaus aligned along functional responsibility. We created the Enforcement Bureau to improve the effectiveness of our enforcement activities in an increasingly competitive and converging market. We created the Consumer Information Bureau to enhance consumers' ability to obtain quick, clear and consistent information about communications regulations and programs. These changes have proven to be quite beneficial. As the industry moves toward fuller competition, the missions of these bureaus become even more critical. For consumers to take full advantage of the choices that competition brings, it is important that they have access to information that allows them to make an informed choice. Their ability to easily and quickly convey to us instances where the markets are not providing useful information to consumers in a particular circumstance or with a particular business is our early warning system for market failure or malfeasance on the part of industry players. While the consolidation of these functions is almost complete, there are some additional functions that are transferable into or out of those two bureaus.

We have undertaken a structural reorganization project that builds on some of the initial efforts of my predecessor, Chairman William E. Kennard. Our efforts will be guided by a few key objectives: (1) a functional organization designed along market lines, rather than technical ones; (2) a flatter substantive bureau structure; and (3) greater consolidation of key support functions.

Our program will proceed in phases. We have begun by systematically taking account of the agency's activities and functions to see what is working well and what is not. From that review we will produce a Phase I, short term, restructuring plan and a Phase II, longer range plan. The Phase II plan will consider what wholesale change is necessary and whether it is timely to move away even more from technology-based buckets. The question has been asked whether the Commission should be aligned along functional lines—e.g., enforcement, consumer information, spectrum management, licensing and competition—given increased convergence in the industry. This question deserves to be asked and answered. But first, we must seek additional and substantial information, and be completely satisfied that it is the right thing to do, before we move to rearrange substantially the organizational structure of the agency.

My goal is to improve the agency on all these fronts. An informed decision, however, is better than one based merely on supposition. I intend to seek the opinions and thoughts from a wide range of participants as we proceed down the path of reform. First, I look forward to working closely with this Subcommittee and other Members of Congress and their staffs. Second, I intend to hold forums to allow those that do business before us let us know how we can improve our processes and procedures. Third, I want to hear from the Commission's employees. They often know best how we should change and what tools they need to do their jobs. I want to gather opinions and ideas, but be swift to make changes. It is our goal to fully complete many of these changes this year.

I will be turning to you for assistance. With regard to the organizational restructuring that is likely to be necessary, I hope you will concur in those changes. Most critically, I look to Congress to support the Commission's budgetary needs and objectives. Please keep in mind that

we are largely a fee-based agency, where those who come before us pay for the services we render in the form of licensing and regulatory fees. We need to have the staff and other resources to provide those services efficiently, knowledgeably and decisively. Finally, I will look to this Subcommittee and Congress to help us expand our authority where necessary to bring about competition and to more effectively enforce our rules. For example, the authority given to us in Section 10 of the Communications Act to forbear from regulating when certain conditions are present has been quite helpful. I would like to be able to use that ability even more and would welcome the opportunity to work with you to explore whether that is feasible. Additionally, we need tougher penalties and longer statute of limitation periods if enforcement is to be more effective.

Conclusion

I cannot predict the future, nor can anyone else at the Commission. When faced with future challenges that are uncertain, the best approach is to build a first-class operation, with top talent, that is trained and disciplined enough to adapt quickly to new and changing situations. No army, for example, can know in advance what it will find when it engages on the battlefield. The fog and terror of war never afford the luxury of predictability. The key to success is to have a force that is well-trained in tactics, strategy and the weapons it will need. A force that is disciplined and able to adjust quickly and adapt to fluid conditions—threats and opportunities both will present themselves through the haze. I hope to build, along with my colleagues and the outstanding FCC staff, just such a unit—one well suited to an uncertain future.

Thank you. I would be happy to answer any questions this Subcommittee may have.